

Regular Session, 2010

HOUSE BILL NO. 1370

BY REPRESENTATIVE MILLS

ABORTION: Provides for license actions imposed against outpatient abortion facilities

## 1 AN ACT

2 To amend and reenact R.S. 40:2175.6(G) and to enact R.S. 40:2175.6(H) and (I), relative to  
3 outpatient abortion facilities; to provide for license actions imposed against an  
4 outpatient abortion facility; to provide for a system of notification, appeals, and  
5 injunctive relief; to provide for an effective date; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 40:2175.6(G) is hereby amended and reenacted and R.S.  
8 40:2175.6(H) and (I) are hereby enacted to read as follows:

9 §2175.6. License issuance; application; on-site inspection

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11 G. ~~The procedure of denial, suspension, or revocation of a license, and~~  
12 ~~appeal therefrom, shall be the same as provided for the licensing of hospitals as~~  
13 ~~contained in R.S. 40:2110. The secretary of the department may deny a license, may~~  
14 ~~refuse to renew a license, or may revoke an existing license, if an investigation or~~  
15 ~~survey determines that the applicant or licensee is in violation of any provision of~~  
16 ~~this Part, in violation of the licensing rules promulgated by the department, or in~~  
17 ~~violation of any other federal or state law or regulation.~~

18 (1) The secretary shall furnish the applicant or licensee thirty calendar days'  
19 written notice specifying the reasons for the denial, nonrenewal, or revocation.

1           (2) The applicant or licensee shall have the right to file a suspensive appeal  
2           of the denial, nonrenewal, or revocation with the office of the secretary within thirty  
3           calendar days from the date of receipt of the written notice. The appeal request shall  
4           specify in detail the reasons why the appeal is lodged.

5           H. Notwithstanding any law to the contrary, the secretary of the department  
6           may issue an immediate suspension of a license if an investigation or survey  
7           determines that the applicant or licensee is in violation of any provision of this Part,  
8           in violation of the rules promulgated by the department, or in violation of any other  
9           federal or state law or regulation, and the secretary determines that the violation or  
10          violations pose an imminent or immediate threat to the health, welfare, or safety of  
11          a client or patient. The secretary shall give the licensee written notice of the  
12          immediate suspension. The suspension of the license is effective upon the receipt of  
13          the written notice.

14          (1) The licensee shall have the right to file a devolutive appeal of the  
15          immediate suspension notice. The appeal request shall be filed with the office of the  
16          secretary within thirty calendar days of the receipt of the written notice of the  
17          immediate suspension. The appeal request shall specify in detail the reasons why the  
18          appeal is lodged.

19          (2) The licensee shall have the right to file for injunctive relief from the  
20          immediate suspension of the license; such injunctive relief shall be filed with the  
21          district court for the parish of East Baton Rouge. Before injunctive relief may be  
22          granted, the licensee shall prove by clear and convincing evidence that the secretary's  
23          decision to issue the immediate suspension of the license was arbitrary and  
24          capricious.

25          I. If a license is revoked or renewal of a license is denied other than for  
26          cessation of business or non-operational status, or if the license is surrendered in lieu  
27          of an adverse action, any owner, officer, member, manager, director, or administrator  
28          of the licensee may be prohibited from owning, managing, directing, or operating  
29          another outpatient abortion clinic in the state of Louisiana.

1           Section 2. This Act shall become effective upon signature by the governor or, if not  
2 signed by the governor, upon expiration of the time for bills to become law without signature  
3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
4 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
5 effective on the day following such approval.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Mills

HB No. 1370

**Abstract:** Provides that the secretary of the Dept. of Health and Hospitals (DHH) may deny, refuse, or revoke an existing license for an outpatient abortion facility if an investigation or survey determines that an applicant or licensee is in violation of the law. Provides for a system of notification and appeal for a denial, refusal, or revocation of a license. Provides that DHH may also suspend a license if an investigation determines that there has been a violation of the law that is an immediate threat to the health and safety of a patient or client. Provides for a system of notification and appeal for a suspension of a license. Provides that if a license is revoked or not renewed for reasons other than cessation of business or non-operational status, the owner of the facility as well as other interested parties may be prohibited from operating another outpatient abortion clinic in La.

Present law provides that the procedure for denying, suspending, or revoking the license of an outpatient abortion facility shall be the same as that for the licensing of hospitals as provided for by law.

Present law on licensing of hospitals states that the secretary of DHH may deny, suspend, or revoke a license in any case in which he finds that there has been a substantial failure of the applicant or licensee to comply with the requirements of the law pertaining to hospital licensing.

Proposed law changes present law by stating that the secretary of DHH may deny, refuse, or revoke an existing license if an investigation or survey determines that the applicant or licensee is in violation of any provision of the law, any rule, or state or federal regulation pertaining to the licensing of outpatient abortion facilities.

Proposed law adds a process for notification to the applicant or licensee and a process to appeal a denial, nonrenewal, or revocation of a license.

Proposed law provides that the secretary of DHH may issue an immediate suspension of a license if an investigation or survey determines that the applicant or licensee is in violation of any provision of the law, any rule, or state or federal regulation pertaining to the licensing of outpatient abortion facilities, and the secretary determines that the violation poses an immediate threat to the health, welfare, or safety of a client or patient.

Proposed law provides for notification of the suspension of the license and a process for the licensee to appeal. Proposed law further provides a right and a process for the licensee to file for injunctive relief from the immediate suspension of the license.

Proposed law provides that if a license is revoked or the renewal is denied other than for cessation of business or nonoperational status, or if a license is surrendered in lieu of an adverse action, any owner, officer, member, manager, director, or administrator of the licensee may be prohibited from owning, managing, directing, or operating another outpatient abortion clinic in La.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 40:2175.6(G); Adds R.S. 40:2175.6(H) and (I))